

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD P. WELLS, et al.,

No. C 05-01229 CRB

Plaintiff,

ORDER SETTING BENCH TRIAL

v.

CALIFORNIA PHYSICIANS' SERVICE,
dba BLUE SHIELD OF CALIFORNIA,

Defendant.

This case has been pending for nearly three years. The Court previously dismissed all of plaintiffs' ERISA claims, except their claim for injunctive relief. By Memorandum and Order filed March 26, 2007, the Court denied defendant's motion for summary judgment on standing grounds. The parties have repeatedly continued the further settlement conference, originally scheduled for November 2006, and have never held the conference. In addition, defendant indicated that it would file a summary judgment motion on the merits of the remaining claim, but as of this date it has not done so.

As the parties have had more than enough time to prepare for trial on the claim for injunctive relief, the Court will hold a bench trial on Tuesday, March 25, 2008 at 8:30 a.m. Trial briefs shall be filed on or before March 21, 2008. The parties may elect to present direct testimony by affidavit, with the witness available for live cross examination. Given the age of this case, and the parties lack of diligence, the Court will not entertain any motions

1 to continue the trial date.

2 **IT IS SO ORDERED.**

3
4 Dated: March 7, 2008



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE